

branded. A portion of the article was labeled: "Contents 1 Lb. 4 Ozs. Burns Highest Quality Sour Pitted * * * Red Cherries. Packed by Alton Canning Co., Alton N. Y." The remainder was labeled: "Garden Brand * * * Sour Pitted Cherries * * * Wholesale Distributors John Price & Co. Philadelphia, Pa. [design showing cluster of red cherries]."

The information charged that a portion of the article was misbranded in that the statement, "Contents 1 Lb. 4 Ozs.", borne on the can label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since each of a large number of the cans examined contained less than 1 pound 4 ounces of the article. Misbranding was alleged with respect to the remainder of the article for the reason that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that it was not normally colored, i. e., the flesh of the cherries was not, in general, a yellowish-white color, but was a red color, in that the cherries were not uniform in size within the prescribed tolerance, and in that the packing medium was not a sugar solution of sufficient strength, i. e., it read less than 16° Brix, and the package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On May 22, 1935, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$50 on each of two counts and suspended sentence as to one count.

W. R. GREGG, *Acting Secretary of Agriculture.*

24717. Misbranding of salad oil. U. S. v. Joseph Polizzi. Plea of guilty. Fine, \$25. (F. & D. no. 33926. Sample no. 70433-A.)

This case involved a product consisting of cottonseed oil flavored with a small amount of olive oil, which was labeled to convey the impression that it was olive oil of foreign origin. Sample cans taken from the shipment were found to be short volume.

On February 13, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joseph Polizzi, Rochester, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act on or about May 28, 1934, from the State of New York into the State of New Jersey of a quantity of salad oil which was misbranded. The article was labeled in part: "La Feroce Brand * * * Net Contents One Gallon."

The article was alleged to be misbranded in that the statement in a foreign language "La Feroce" in large, prominent type, and the statement "Pure Olive Oil" also in large, prominent type, displayed in such manner as to be read separately, together with pictorial designs of a foreign scene showing a huge lion and foreign-appearing plants and trees and designs of branches resembling olive branches, and the statement "Net Contents One Gallon", borne on the label, were false and misleading in that the said statements and designs represented that the article was olive oil imported from a foreign country, and that the cans each contained 1 gallon net, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the cans contained less than 1 gallon net, and since the product was not olive oil imported from a foreign country, but was a domestic product consisting almost entirely of cottonseed oil, and the misleading statements and designs were not corrected by the statements written diagonally upwards on the panel, namely, "Vegetable Salad Oil Slightly Flavored With" and followed by the statement "Pure Olive Oil A Compound", written below, separately and horizontally, in view of the fact that olive oil is also a vegetable oil, and that pure olive oil could not be a compound other than a blend of different vintages of olive oil.

On May 23, 1935, the defendant entered a plea of guilty and the court imposed a fine of \$25.

W. R. GREGG, *Acting Secretary of Agriculture.*

24718. Adulteration of butter. U. S. v. Calhoun Creamery Co. Plea of guilty. Fine, \$25. (F. & D. no. 33943. Sample no. 70737-A.)

This case was based on a shipment of butter that contained less than 80 percent of milk fat.

On March 11, 1935, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Calhoun Creamery Co., a corporation, Church,